

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

PROGRESSIVE AMERICAN INSURANCE
COMPANY,

Plaintiff,

V.

CAROL THORN, JOLEEN LEEA COLON;
DALE EUGENE KIRKINDOLL; ELIZABETH
S. KIRKINDOLL; THOMAS HOLT
KIRKINDOLL; JAMES W. GRIFFIN; SANDRA
L. GRIFFIN; PATRICK A. BELT;
CHRISTOPHER B. BELT; GENE
STEGMAIER; ESTATE OF WILLIAM R
KLAUSS, a deceased minor, LV STABLE
MEMORIAL HOSPITAL; DRPT. LAKE
REHABILITATION CENTER; BUTLER
COUNTY EMERGENCY MEDICAL
SERVICES.

Defendants.

CIVIL ACTION NUMBER:

ANSWER OF DEFENDANTS DALE EUGENE KIRKINDOLL,
ELIZABETH S. KIRKINDOLL AND THOMAS HOLT KIRKINDOLL

COME NOW the above referenced Defendants and deny each and every material allegation of Progressive' complaint and demand strict proof thereof.

FIRST AFFIRMATIVE DEFENSE

Progressive's complaint fails to state a claim upon which relief may be granted;

SECOND AFFIRMATIVE DEFENSE

Progressive has no standing to assert that persons or entities other than those who have filed suit or made a claim have a right to any of the proceeds;

THIRD AFFIRMATIVE DEFENSE

Defendant preserves the right to assert other affirmative defenses including claims for attorney fees, costs and interest.

Respectfully submitted,

JACKSON, FOSTER & GRAHAM, LLC
Post Office Box 2225
Mobile, AL 36652
251-433-6699
251-433-6127

BY: /s/ SIDNEY W.JACKSON, III
SIDNEY W. JACKSON, III(JAC024)
MATHEW B. RICHARDSON (RIC050)

CERTIFICATE OF SERVICE

I hereby certify that I have on this day 25th of August, 2006, served a copy of the foregoing pleading with te Clerk of the Court using the CM/CEF system which will send notification of such filing to the following:

R. Larry Bradford, Esq.
BRADFORD & SEARS
2020 Canyon Road
Birmingham, AL 35216

Christopher L. Whittington, Esq.
WHITTINGTON & REYNOLDS
P.O. Box 3035
Baton Rouge, LA 70821-3035

/s/ SIDNEY W.JACKSON, III